

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Saham District of New York

Division

Case No. 9:21-cv-1144 (TJM/ATB)

(to be filled in by the Clerk's Office)

Bahaid McLean

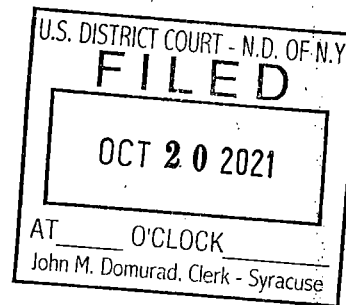
Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-
Co. A. Cottrell, GT. Hess, Sgt. G. Steinberg
Co. N. Grzeskowiak, Co. J. Strong
Co. A. Luno, Co. K. Steele, Sgt. Russell see attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)



COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Attached

C.O. Z. Thomas

Superintendent. McCarthy

Commissioner Annucci,

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Bahsid McLean

All other names by which
you have been known:

ID Number

1645033

Current Institution

~~Five Points CF~~ Five Points CF

Address

~~State Route 96 P.O. Box 119~~
~~State Route 96 P.O. Box 119~~
~~Samuelson~~ NY ~~14511~~ 14511
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

A. CollrellJob or Title (*if known*)C.O.

Shield Number

N/A

Employer

DOCCS

Address

~~Five Points CF~~ Auburn CF
~~Samuelson~~ Auburn NY ~~14511~~ 13024
City State Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

T. HessJob or Title (*if known*)Sergeant

Shield Number

N/A

Employer

DOCCS

Address

~~Five Points CF~~ Auburn CF
Auburn NY 13024
City State Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

G. Steinberg

Job or Title (if known)

Sgt

Shield Number

N/A

Employer

Doccs

Address

Auburn CF

Auburn

City

NY

State

13024

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

N. GRZESKOWIAK

Job or Title (if known)

C.O.

Shield Number

N/A

Employer

Doccs

Address

Auburn CF

Auburn

City

NY

State

13024

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Eighth Amendment, Cruel and unusual Punishment, and equal Protection

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Defendant No. 5

Name

J. Strong

Job or title

C.O.

Shield #

N/A

Employer

DOCCS

Address

Auburn CF

Auburn, NY 13024

Defendant No. 6

Arturo

Name

Arturo

Job or title

C.O.

Shield number

N/A

Employer

DOCCS

Address

Auburn CF, Auburn, NY 13024

Defendant NO 7

NAME K. Steele
Job or title C.O.
Shield number NIA
Employer DACS
Address Auburn CT Auburn NY 13024

Defendant NO 8

Name Purcell
Job or title Sgt
Shield number N/A
Employer DACS
Address Auburn CT New York 13024

Defendant NO 9

Name Z. Thomas
Job or title C.O.
Shield number N/A
Employer DACS
Address Auburn CT Auburn NY 13024

Defendant No 10

name B. Hardman

Job or title Lieutenant

Shield number N/A

Employer DCCS

Address Auburn, CA Auburn 13024

Defendant No 11

name A. Amucci

Job or title Commissioner

Shield number N/A

Employer DCCS

Address Harriman State Campus bldg 2, NY 12226

Defendant No 12

name McCarthy

Job or title Superintendent

Shield number N/A

Employer DCCS

Address Auburn, CA New York 13024

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

On AUG 12, 2021 at Auburn CI, D-block 24 cell. I was assaulted by defendants CO Caffrell, Sgt Steinberg, Sgt Hess, CO Grzeskowiak, CO Strong, CO Turo. The defendants while inside of my cell struck me repeatedly with fist, punches, kicks staff issued before

I was Kicked and Punched by the defendants, threatened to be killed.

The defendants put something over my head using it as a handle started to bash my face and head into the bars of my cell, floor, desk, toilet and walls. Defendants Cottrell, Steinberg, Hess, Grzeskowiak, Strong, and two Simultaneously assaulted me while inside of my cell before they were stopped. as a Sgt and CO there is a duty to protect me from assault the Sgt's did not do that instead they assisted in assaulting me. after I was taken to C-block by Sgt Purcell, K. Steele and Z. Thomas at this time I was thrown down two flights of stairs, struck with batons, fist and feet. my head was repeatedly smashed against stairs and bars by the defendants, Sgt Purcell twice shot on me. Z. Thomas then held my legs apart while K. Steele kicked me once in my testicles. Sgt Purcell then pulled out a Gravity Flip knife putting it to my neck threatened to kill me by slitting my throat and then shot on me again.

from the start of the assaults in both B-block and C-block I was restrained with handcuffs behind my back and leg shackles. when the defendants were done assaulting me the leg shackles were removed and I was forced to walk to medical even after I told the defendant it was painful to do so. I had to be hospitalized at Adam Community hospital.

C. What date and approximate time did the events giving rise to your claim(s) occur?

8/12/2021 From 2:30 PM to 2:50 PM

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Cottrell, Thomas, Steele, Hess, Lino, Steinberg, Grzeskowiak, Strong, viciously gang assaulted me. Litteret hartman failed to properly supervise or intervene in this assault. McCarthy failed to provide protection for me from officers who either allowed me to be assaulted or helped. Annucci failed to ensure staff were mentally sound to conduct their duties.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained a fractured back, nose, i had to receive six staples to my head & stitches to my face at Auburn Community Hospital, i'm being treated for pain, i have panic attacks when handcuffed, trouble sleeping and both my hands have a numbing sensation from handcuffs being applied too tight while i was being treated at Auburn Community Hospital and directed after the assault.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

i'm seeking one million dollars for my fractured back, nose, staples need to close my wounds as well as stitches, mental anguish, excessive use of force, liable, failure to protect me from the gang assault by corrections staff and medical expenses.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Return of

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

All

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Five Points CF

2. What did you claim in your grievance?

That I was assaulted by staff.

3. What was the result, if any?

My grievance was denied.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed to CORC and the Superintendent. I've gotten no response.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Bahsid McLean

Defendant(s) K. Steele, Z Thomas, Russell, A. Laro, Strong, Hess, Colrell, Steinberg, Czaskowski

2. Court (if federal court, name the district; if state court, name the county and State)

Seneca County

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

2021

6. Is the case still pending?

☒ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Bahsid Milan

Defendant(s) State of New York

2. Court (if federal court, name the district; if state court, name the county and State)

Southern district

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

2020

6. Is the case still pending?

☒ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Pending

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

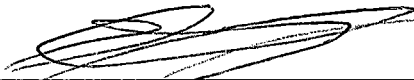
Date of signing: 10-9-2021

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address


Bahsid McLean
1645033
Five Points of state route 96 PO box 119
~~Point~~ Bonulus NY 14511
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address